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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,596	09/05/2003	Allan D. Rookes	85096-102 JAB	7310
23529	7590	06/17/2004	EXAMINER	
ADE & COMPANY 1700-360 MAIN STREET WINNIPEG, MB R3C3Z3 CANADA			PETRAVICK, MEREDITH C	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 06/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/655,596

Applicant(s)

ROOKES, ALLAN D.

Examiner

Meredith C Petravick

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 12/15/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 1 states, “vehicle” while the body of claim1 states “ the bucket mount” and “the tractor.” In addition, claim 2 states, “the mounting arms.” It is unclear if applicant is claiming the subcombination, the combination with a generic vehicle, the combination with a tractor or the combination with a vehicle having a bucket. For the purpose of examination on the merits, it will be assumed that applicant is trying to claim the combination with a generic vehicle. Correction is required.

Claim 2 states that the housing has mounting members for attachment to the mounting arms of the vehicle. However, claim 1 states that the mounting arrangement attaches to the vehicle. For the purpose of examination on the merits it is assumed that applicant meant the mounting arrangement instead of the housing. Correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 and 4-8 rejected under 35 U.S.C. 102(b) as being anticipated by Davison, 4,996,830.

Davison discloses a vehicle mountable cutting device including:

- a mounting arrangement (16a)
- a housing (16b)
- a cutting mechanism (20) on the outer end of the housing
- an extending arrangement (including 16c)

Regarding claims 4-5, the extending arrangement includes a slide member (16c) that has the cutting mechanism on its outer end and a motor (54).

Regarding claims 5-8, the cutting mechanism has a semi circular cover (58) over the rear part and includes a skirt (58c).

5. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Storm, 3,624,698.

Storm discloses

- a mounting arrangement (Fig. 1)
- a housing (40)
- a cutting mechanism (41) on the outer end of the housing
- an extending arrangement (42)

Regarding claims 2-3, the cutting device is mounted on the side of the tractor so that it extends at a right angle to the direction of movement (Fig. 1).

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6. Claims 9-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Eggena 5,435,117.

Eggena discloses a skid steer loader with a cutting device including:

- a mounting arrangement
- a housing (12)
- a cutting mechanism (14)

Regarding to claim 10, the mounting arrangement includes a vertical plate (25), a horizontal plate (part of 25) and braces (68).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eggena in view of Davison.

Eggena discloses the device described above. However, Eggena discloses a square cover without a covered back instead of a circular cover with a covered back.

Like Eggena, Davison discloses a brush cutter. Unlike Eggena, Davison discloses making the cover circular (58) that covers the back while still leaving an opening. The cover has a skirt. Davison teaches that this allows brush to be cut while protecting the motor and the drive shaft (Column 3, lines 30-55).

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the cover of Eggena circular with an opening like in Davison in order to efficiently cut while protecting the motor and drive shaft.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meredith Petravick whose telephone number is 703-305-0047.

The examiner can normally be reached on Monday-Thursday from 7:00 a.m. - 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at 703-308-3870.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-308-1113. The fax number for this Group is 703-872-9306.



**Meredith Petravick  
Patent Examiner  
Group Art Unit 3671**

June 13, 2004